

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

03-CA-162728

Date Filed

10/27/2015

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Michell Enterprise, LLC d/b/a McDonald's located at 1814 Central Avenue in Colonie, NY 12206
& McDonald's USA LLC, One McDonald's Plaza, Oak Brook, IL 60523, as Joint or Single Employer

b. Tel. No.

(518) 464-1233

c. Cell No.

d. Address (Street, city, state, and ZIP code)

McDonald's 1814 Central Ave, Colonie, NY 12206

&

McDonald's USA LLC, One McDonald's Plaza, Oak Brook, IL 60523

e. Employer Representative

(b) (6), (b) (7)(C)

Michell Enterprises LLC, 5 National Dr, Windsor Locks, CT 06096

&

Gloria Santona, Executive Vice President, General Counsel and Secretary, McDonald's Corporation

f. Fax No.

g. e-Mail

h. Number of workers employed

Approx. 45

i. Type of Establishment (factory, mine, wholesaler, etc.)

Restaurant

j. Identify principal product or service

Food Service

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3)

of the National Labor Relations Act, and these unfair labor

practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

The above-named employer has unlawfully interfered with, restrained and coerced employees in the exercise of their rights under the Act by, on or about (b) (6), (b) (7)(C) 2015, unlawfully discharging (b) (6), (b) (7)(C), in response to (b) (6), (b) (7)(C) protected concerted activity.

3. Full name of party filing charge (If labor organization, give full name, including local name and number)

Citizen Action of NY

4a. Address (Street and number, city, state, and ZIP code)

94 Central Avenue
Albany, NY 12206

4b. Tel. No. (518) 465-4600

4c. Cell No.

4d. Fax No.

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No.

212-627-8100

Office, if any, Cell No.

Fax No.

212-627-8182

e-Mail

cgao@levyratner.com

By 
(signature of representative of person making charge)

Ceilidh Gao - Attorney

(Print type name and title or office, if any)

Address Levy Ratner, P.C., 80 Eighth Avenue Floor 8, New York, NY 10011-5126

10/27/15

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlr.gov
Telephone: (716)551-4931
Fax: (716)551-4972



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October 27, 2015

Michell Enterprise, LLC d/b/a McDonald's
1814 Central Ave
Albany, NY 12205-4769

GLORIA SANTONA, EXECUTIVE VICE PRESIDENT & GENERAL COUNSEL
MCDONALD'S USA, LLC
ONE MCDONALD'S PLAZA
OAK BROOK, IL 60523

Re: Michell Enterprise, LLC d/b/a McDonald's
& McDonald's USA LLC Joint Employer
Case 03-CA-162728

Dear Ms. SANTONA:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner DAVID M. TURNER whose telephone number is (518)431-4160. The mailing address is 11A CLINTON AVE STE 342, ALBANY, NY 12207-2366. If this Board agent is not available, you may contact Resident Officer BARNETT L. HOROWITZ whose telephone number is (518)431-4156.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your

October 27, 2015

representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.** Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

October 27, 2015

Very truly yours,

A handwritten signature in black ink that reads "Rhonda P. Ley". The signature is written in a cursive, flowing style.

RHONDA P. LEY
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc:

(b) (6), (b) (7)(C)
Michell Enterprises LLC
5 National Dr
Windsor Locks, CT 06096

THOMAS R. GIBBONS, ESQ.
Jackson Lewis LLP
90 State House Sq Ste 8
Hartford, CT 06103-3702

Doreen S. Davis, Esquire
Jones Day
222 East 41st Street
New York, NY 10017-6702

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Michell Enterprise, LLC d/b/a McDonald's & McDonald's USA LLC Joint Employer

CASE NUMBER

03-CA-162728

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**

A. STATE OF INCORPORATION OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$

YES NO

B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$**H. Gross Revenues from all sales or performance of services (Check the largest amount)**☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may

cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**MICHELL ENTERPRISE, LLC D/B/A
MCDONALD'S & MCDONALD'S USA LLC
JOINT EMPLOYER**

Charged Party

and

CITIZEN ACTION OF NY

Charging Party

Case 03-CA-162728

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on October 27, 2015, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

Michell Enterprises LLC
5 National Dr
Windsor Locks, CT 06096

THOMAS R. GIBBONS, ESQ.
Jackson Lewis LLP
90 State House Sq Ste 8
Hartford, CT 06103-3702

Michell Enterprise, LLC d/b/a McDonald's
1814 Central Ave
Albany, NY 12205-4769

GLORIA SANTONA, EXECUTIVE VICE
PRESIDENT & GENERAL COUNSEL
MCDONALD'S USA, LLC
ONE MCDONALD'S PLAZA
OAK BROOK, IL 60523

Doreen S. Davis, ESQ., Esquire
Jones Day
222 East 41st Street
New York, NY 10017-6702

October 27, 2015

Date

LOUIS F. PORTO, Designated Agent of
NLRB

Name

/s/LOUIS F. PORTO

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlr.gov
Telephone: (716)551-4931
Fax: (716)551-4972



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October 27, 2015

Citizen Action of NY
94 Central Ave
Albany, NY 12206-3030

Re: Michell Enterprise, LLC d/b/a McDonald's
& McDonald's USA LLC Joint Employer
Case 03-CA-162728

Dear Sir or Madam:

The charge that you filed in this case on October 27, 2015 has been docketed as case number 03-CA-162728. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner DAVID M. TURNER whose telephone number is (518)431-4160. The mailing address is 11A CLINTON AVE STE 342, ALBANY, NY 12207-2366. If this Board agent is not available, you may contact Resident Officer BARNETT L. HOROWITZ whose telephone number is (518)431-4156.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

October 27, 2015

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Rhonda P. Ley". The signature is written in a cursive, flowing style.

RHONDA P. LEY
Regional Director

cc: Ceilidh B. Gao, ESQ.
Levy Ratner, P.C.
80 Eighth Avenue Fl. 8
New York, NY 10011-5126

From: [Turner Jr., David M.](#)
To: ["Ceilidh B. Gao"](#)
Subject: McDonalds
Date: Tuesday, October 27, 2015 3:49:00 PM

Ceilidh,

I can interview your witness Wednesday afternoon or Thursday morning. Please advise. Thanks,
Dave

David Turner
Field Agent
Leo W. O'Brien Federal Building
Clinton Ave and N Pearl Street - Room 342
Albany, NY 12207-2350
518.431.4160 (phone)
518.431.4157 (fax)
david.turner@nrlrb.gov

From: [Ceilidh B. Gao](#)
To: [Turner Jr., David M.](#)
Subject: RE: McDonalds
Date: Thursday, October 29, 2015 10:03:26 AM

I understand the internal timing incentives, refile on November 13 is not a problem. The Union withdraws the current charge (though I have not received any confirmation of docketing yet). I will follow up with the specific time for the affidavit.

From: Turner Jr., David M. [mailto:David.Turner@nlrb.gov]
Sent: Thursday, October 29, 2015 8:12 AM
To: Ceilidh B. Gao
Cc: Turner Jr., David M.
Subject: FW: McDonalds

Ceilidh,

To follow my email from this morning, please produce the witness by the close of business November 4 or a recommendation will be made to dismiss the charge. The rules and the Region requires us to meet Charging Party's witnesses promptly and we cannot wait to take the initial affidavit, particularly in what could be a significant case, until more than two weeks after filing. I can be available early in the morning or after hours to meet the witness if you like. Otherwise, please withdraw and refile on November 13 and I can meet (b) (6), (b) (7)(C) that day. Please call for any reason. Dave

From: Turner Jr., David M.
Sent: Thursday, October 29, 2015 4:55 AM
To: Ceilidh B. Gao
Subject: Re: McDonalds

We cannot wait more than two weeks before taking the initial affidavit especially Ina 10(j) potential case. Please withdraw and refine. We can docket on the 13th and interview the witness that day.

From: Ceilidh B. Gao <cgao@levyratner.com>
Sent: Wednesday, October 28, 2015 6:51:56 PM
To: Turner Jr., David M.
Subject: RE: McDonalds

The witness is currently working a schedule where (b) (6), (b) (7)(C) Unfortunately, this Friday does not work, and next Friday will not work because (b) (6), (b) (7)(C) is unavailable and (b) (6), (b) (7)(C) is providing transportation. Are you available Friday November 13?

From: Turner Jr., David M. [mailto:David.Turner@nlrb.gov]
Sent: Wednesday, October 28, 2015 2:33 PM
To: Ceilidh B. Gao
Subject: RE: McDonalds

If we can start early, say 8 a.m.?

From: Ceilidh B. Gao [<mailto:cgao@levyratner.com>]
Sent: Wednesday, October 28, 2015 2:37 PM
To: Turner Jr., David M.
Subject: Re: McDonalds

Are you still available Friday?

Sent from my iPhone

On Oct 28, 2015, at 2:31 PM, Turner Jr., David M. <David.Turner@nlrb.gov> wrote:

Any luck? I am now available all day tomorrow.

From: Ceilidh B. Gao [<mailto:cgao@levyratner.com>]
Sent: Tuesday, October 27, 2015 6:05 PM
To: Turner Jr., David M.
Subject: RE: McDonalds

Thanks David, the worker is a bit hard to reach (b) (6), (b) (7)(C) I will let you know when I hear.

From: Turner Jr., David M. [<mailto:David.Turner@nlrb.gov>]
Sent: Tuesday, October 27, 2015 3:49 PM
To: Ceilidh B. Gao
Subject: McDonalds

Ceilidh,

I can interview your witness Wednesday afternoon or Thursday morning. Please advise. Thanks, Dave

David Turner
Field Agent
Leo W. O'Brien Federal Building
Clinton Ave and N Pearl Street - Room 342
Albany, NY 12207-2350
518.431.4160 (phone)
518.431.4157 (fax)
david.turner@nlrb.gov

From: [Murphy, Paul](#)
To: [Harris, Vallana M.](#)
Cc: [Turner Jr., David M.](#); [Horowitz, Barney](#)
Subject: FW: FIR 03-CA-162728 WD REQUEST.docx
Date: Thursday, October 29, 2015 11:07:58 AM
Attachments: [FIR 03-CA-162728 WD REQUEST.docx](#)

I approve the non-adjusted withdrawal request.

From: Horowitz, Barney
Sent: Thursday, October 29, 2015 11:06 AM
To: Murphy, Paul
Subject: FIR 03-CA-162728 WD REQUEST.docx



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 03
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlrb.gov
Telephone: (716)551-4931
Fax: (716)551-4972

October 29, 2015

Thomas R. Gibbons, Esq.
Jackson Lewis LLP
90 State House Sq Ste 8
Hartford, CT 06103-3702

Doreen S. Davis, ESQ., Esquire
Jones Day
222 East 41st Street
New York, NY 10017-6702

Michael Ferrell, ESQ.
Jones Day
77 W Wacker Dr Ste 3500
Chicago, IL 60601-1692

Ilana Yoffe, Esq.
Jones Day
222 E 41st St
New York, NY 10017-6739

Re: Michell Enterprise, LLC d/b/a McDonald's
& McDonald's USA LLC Joint Employer
Case 03-CA-162728

Dear Gibbons, Ms. Davis, Mr. Ferrell, Ms. Yoffe:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

/s/RHONDA P. LEY
RHONDA P. LEY
Regional Director

cc: (b) (6), (b) (7)(C)
Michell Enterprises LLC
5 National Dr
Windsor Locks, CT 06096

Michell Enterprise, LLC d/b/a
McDonald's
1814 Central Ave
Albany, NY 12205-4769

Gloria Santona, Executive Vice President
& General Counsel
Mcdonald's USA, LLC
One Mcdonald's Plaza
Oak Brook, IL 60523

Ceilidh B. Gao, ESQ.
Levy Ratner, P.C.
80 Eighth Avenue Fl. 8
New York, NY 10011-5126

Citizen Action of NY
94 Central Ave
Albany, NY 12206-3030